

REMARKS/ARGUMENTS

Applicants have received and carefully reviewed the Final Office Action of the Examiner mailed August 13, 2008. Claims 1-40 and 42-43 are pending. Claim 41 has been canceled without prejudice. Reconsideration and reexamination are respectfully requested.

Rejection under 35 U.S.C. § 112

Claims 13 and 41 are rejected as being indefinite because the phrase “the schedule routine” in line 14 has insufficient antecedent basis. The phrase “a scheduling routine” is recited in claim 13, line 4, thus providing antecedent basis. In any event, claim 13 has been amended slightly, and claim 41 has been canceled without prejudice. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection under 35 U.S.C. § 102(e)

Claims 1-43 are rejected as being anticipated by Yoon et al. (US 2004/0107717). Applicants do not concede the correctness of the rejection, however in the interest of advancing prosecution, Applicants submit herewith a declaration under 37 CFR 1.131, stating the invention was completed prior to the October 3, 2003 filing date of Yoon et al. As such, Yoon et al. is not believed to qualify as prior art.

Official Notice

On page 5 of the Final Office Action, and with respect to claim 41, the Examiner takes official notice that exiting the editing mode after modifying the schedule was well known at the time the invention was made in the analogous art of computer scheduling. Applicants respectfully traverse such taking of Official Notice. As noted in MPEP § 2144.03(A):

Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While "official notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in In re

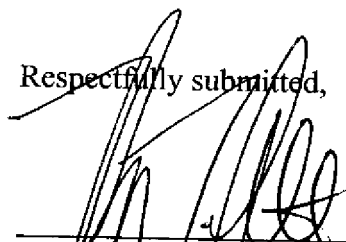
Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

Applicants do not believe that the specific method steps, as used in the context of claim 41, of exiting an editing mode after modifying a schedule, is capable of instant and unquestionable demonstration as being well-known in the art of computer scheduling, as alleged by the Examiner. Applicants thus respectfully request that the Examiner produce supporting documentary evidence evidencing this alleged well-known knowledge in the art.

Conclusion

Reconsideration and reexamination are respectfully requested. It is submitted that, in light of the above remarks, all pending claims 1-40 and 42-43 are now in condition for allowance. If a telephone interview would be of assistance, please contact the undersigned attorney at 612-359-9348.

Respectfully submitted,



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